

Effective 5/13/2014

11-13-303 Source of project entity's payment of sales and use tax -- Gross receipts taxes for facilities providing additional project capacity.

- (1) A project entity is not exempt from sales and use taxes under Title 59, Chapter 12, Sales and Use Tax Act, to the extent provided in Subsection 59-12-104(2).
- (2) A project entity may make payments or prepayments of sales and use taxes, as provided in Title 63M, Chapter 5, Resource Development Act, from the proceeds of revenue bonds issued under Section 11-13-218 or other revenues of the project entity.
- (3)
 - (a) This Subsection (3) applies with respect to facilities providing additional project capacity.
 - (b)
 - (i) The in lieu excise tax imposed under Title 59, Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, shall be imposed collectively on all gross receipts derived with respect to the ownership interests of all project entities and other public agencies in facilities providing additional project capacity as though all such ownership interests were held by a single project entity.
 - (ii) The in lieu excise tax shall be calculated as though the gross receipts derived with respect to all such ownership interests were received by a single taxpayer that has no other gross receipts.
 - (iii) The gross receipts attributable to such ownership interests shall consist solely of gross receipts that are expended by each project entity and other public agency holding an ownership interest in the facilities for the operation or maintenance of or ordinary repairs or replacements to the facilities.
 - (iv) For purposes of calculating the in lieu excise tax, the determination of whether there is a tax rate and, if so, what the tax rate is shall be governed by Section 59-8-104, except that the \$10,000,000 figures in Section 59-8-104 indicating the amount of gross receipts that determine the applicable tax rate shall be replaced with \$5,000,000.
 - (c) Each project entity and public agency owning an interest in the facilities providing additional project capacity shall be liable only for the portion of the gross receipts tax referred to in Subsection (3)(b) that is proportionate to its percentage ownership interest in the facilities and may not be liable for any other gross receipts taxes with respect to its percentage ownership interest in the facilities.
 - (d) No project entity or other public agency that holds an ownership interest in the facilities may be subject to the taxes imposed under Title 59, Chapter 7, Corporate Franchise and Income Taxes, with respect to those facilities.
- (4) For purposes of calculating the gross receipts tax imposed on a project entity or other public agency under Title 59, Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, or Subsection (3), gross receipts include only gross receipts from the first sale of capacity, services, or other benefits and do not include gross receipts from any subsequent sale, resale, or layoff of the capacity, services, or other benefits.

Amended by Chapter 189, 2014 General Session